

REMARKS*1. Status of claims*

Claims 1-4, 7-23, 26-44, 46-51, 54-62, and 65-78 are pending, and claims 4, 8, 23, 27, 51, and 73 are withdrawn from consideration. Claims 1-3, 7, 9-22, 26, 28-44, 46-50, 54-62, 65-72, and 74-78 are pending and currently under consideration.

2. Claim rejections under 35 U.S.C. §103

Claims 1-3, 7, 9-22, 26, 28-44, 46-50, 54-62, 65-72, and 74-78 are rejected under 35 U.S.C. §103(a) as being unpatentable over Bansleben, *et al.*, U.S. Pat. No. 6,255,248 ("Bansleben") in view of Cahill, *et al.*, U.S. Pat. No. 6,083,585 ("Cahill"), for reasons previously made of record. The Examiner indicated that an amendment to specify that the oxygen scavenging moieties of the oxygen scavenging polymers consist essentially of, e.g., vinyl cyclohexene units would overcome the rejection relying on Bansleben as primary reference (Paper mailed April 24, 2003, Detailed Action, p. 4, lines 5-12).

Applicants respectfully submit that no such amendment is necessary. Claims 1, 20, 49, 59, and 60 recite "the oxygen scavenging polymer is selected from the group consisting of ethylene/methyl acrylate/cyclohexenylmethyl acrylate tripolymer (EMCM), ethylene/vinyl cyclohexene copolymer (EVCH), ethylene/cyclohexenylmethyl acrylate copolymer (ECHA), and cyclohexenylmethyl acrylate homopolymer (CHAA)."

Therefore, the present claims are distinct over Bansleben, which teaches oxygen scavenging polymers containing cyclopentyl groups in the polymer backbone. In contrast, each of the oxygen scavenging polymers recited by the present claims contains cyclohexenyl pendant

groups. Thus, Applicants respectfully request this rejection of claims 1-3, 7, 9-22, 26, 28-44, 46-50, 54-62, 65-72, and 74-78 be withdrawn.

3. Claim rejections under obviousness-type double patenting

Claims 1-3, 7, 9-22, 26, 28-44, 46-50, 54-62, 65-72, and 74-78 are rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of Yang, *et al.*, U.S. Pat. No. 6,525,123. Applicants present a terminal disclaimer executed by their undersigned representative, attached hereto, in order to obviate this rejection.

4. Final remarks

In conclusion, Applicants hold that all pending claims under consideration are in condition for allowance. The Examiner is invited to contact the undersigned patent agent at (713) 934-4065 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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